

Office of the Secretary of Defense

§ 189.6

and geophysical tests before requesting a mineral lease.

(f) *Saleable minerals.* Common variety minerals, such as sand, clay, and gravel, that are sold under certain statutory authorities (30 U.S.C. *et seq.* and 41 CFR 101-47.302-2

§ 189.4 Policy.

In accordance with established DoD policy to promote optimal use of real property under the multiple-use principle (DoD Directive 4700.1), DoD lands shall be made available for mineral exploration and extraction to the maximum extent possible consistent with military operations, national defense activities, and Army civil works activities.

§ 189.5 Responsibilities.

(a) The *Assistant Secretary of Defense (Manpower, Reserve Affairs, and Logistics)* shall:

(1) Have primary responsibility for developing DoD policy for mineral exploration and extraction on DoD lands.

(2) Ensure that the Military Departments issue regulatory documents implementing this Directive.

(b) The *Secretaries of the Military Departments* shall:

(1) Review and approve or disapprove requests from the Department of the Interior (DoI), the Federal mineral leasing agency, to lease DoD lands under 43 U.S.C. 155 *et seq.* and DoD Directive 5160.63.

(2) Issue regulatory documents implementing this Directive to prescribe procedures relating to the issuance of permits and leases and the approval of plans of operations for mineral exploration and extraction.

(3) Formulate a system for maintaining records of land status to assist the DoI in mineral leasing. This system shall be established in accordance with DoD Directive 5000.11 and shall use existing standard data elements from DoD 5000.12-M, whenever possible.

§ 189.6 Procedures.

(a) If a Military Department cannot consent to exploration or extraction, it also may not approve testing or leasing. Exclusion of lands from exploration and extraction shall be justified and supported. Availability of lands is

subject to certain conditions and stipulations that also shall be justified. Granting approval for leasing usually shall be construed as consent ultimately to allow drilling or other forms of mineral extraction. Accordingly, initial approval clearly shall indicate the conditions, if known, under which further exploration or extraction shall be allowed. For example, classified operations, ammunition and explosives operational storage requirements, and contaminated lands may restrict or exclude leasing or may require no surface disturbance stipulations (DoD 5154.4-S).

(b) The Military Departments may issue permits to parties interested in conducting seismic or other geophysical tests on DoD lands. In unusual circumstances, the Military Departments may refer permit applications to the DoI for issuance. Permits are subject to the approval of, and conditions imposed by, the Military Department concerned. The issuing agency shall make any required environmental and cultural studies. For permits issued by the DoI, the Military Department concerned shall provide, upon request, environmental and cultural information held by the Department.

(c) *Leases.* The DoI receives and processes all mineral lease requests and then forwards such lease offers and title report requests to the Military Department concerned. The Military Department then shall decide whether and under what conditions its land may be made available for leasing.

(1) *Environmental and cultural considerations for leases.* As the lead agency, the DoI obtains all environmental and cultural documentation before deciding to lease. The responsibilities of the Military Department concerned, when acting as a cooperating agency, shall be limited to providing to the DoI, upon request, any available environmental and cultural information.

(2) *Title search.* The Military Department concerned shall furnish to the DoI available information for acquired lands. DoI title records shall be relied upon for withdrawn public domain lands, except that the Military Departments shall identify all outstanding interests, such as easements and licenses. When title information is incomplete,